

FILED
U.S. DISTRICT COURT
WESTERN DISTRICT OF NEW YORK
AUG 18 2005

-PS-O-

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

RYAN J. LAWS, 05-0557,

Plaintiff,

-v-

JOE CROFT, Deputy; RUFFALO, Deputy;
and JAMES SHOWMAN, Sgt.;

Defendants.

DECISION AND ORDER
05-CV-6402CJS (Fe)

Plaintiff, who is incarcerated in the Wayne County Jail, has requested permission to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a) and has both met the statutory requirements and furnished the Court with a signed Authorization. Accordingly, plaintiff's request to proceed as a poor person is hereby granted. In addition, plaintiff's complaint has been screened by the Court with respect to the 28 U.S.C. §§ 1915(e) and 1915A criteria.

The Court is skeptical about the claims in the complaint. Although plaintiff may fail to prove his claims, the Court's uncertainty that plaintiff will ultimately succeed on the merits is no justification for a dismissal at this stage of the case. See *McEachin v. McGuinnis*, 357 F.3d 197 (2d Cir. 2004). Since the Court cannot say at this stage that "it appears beyond doubt that the plaintiff can prove no set of facts in support of the claim which would entitle him to relief," *Staron v. McDonald's Corp.*, 51 F.3d 353, 355 (2d Cir. 1995) (quoting *Conley v. Gibson*, 355 U.S. 41, 45-46

(1957)), the claims may go forward at this stage. The Clerk of the Court is directed to file plaintiff's papers, and to cause the United States Marshal to serve copies of the Summons, Complaint, and this Order upon the named defendants without plaintiff's payment therefor, unpaid fees to be recoverable if this action terminates by monetary award in plaintiff's favor.

Pursuant to 42 U.S.C. § 1997e(g)(2), the defendants are directed to answer the complaint.

IT IS SO ORDERED.

A handwritten signature in cursive script, reading "Richard J. Arcara", is written over a horizontal line.

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

Dated:

Aug. 18, 2005